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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,988	08/30/2000	Michio Kusayanagi	FUJ 17.433	2401
26304	7590	11/03/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN			WONG, BLANCHE	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	
			2667	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/651,988	<b>Applicant(s)</b> KUSAYANAGI ET AL.	
	<b>Examiner</b> Blanche Wong	<b>Art Unit</b> 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1 and 14 is/are rejected.
- 7) ☒ Claim(s) 2-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the distribution means (cl. 2), the setting means (cl. 3), the labeling means (cl. 4), the selecting means (cl. 6), the assigning means (cl. 7), the extracting means (cl. 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claims 1,13,14 are objected to because of the following informalities:

With regard to claim 1, it is unclear whether the amended phrase – that is connected with a user-side device by a PVC path – is describing a layer 2 link handler or a network-side device in ln. 1.

With regard to claim 13, “a” should be added in front of – path determining means – in ln. 5.

With regard to claim 14, “layer” should be added in front of – 2 link handler – in ln. 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over prior arts in Fig. 26 and 27, and in view of Kim (U.S. Pat No. 6,519,256).

Regarding claim 1, Fig. 26 discloses a network-side device that is connected with a user-side device by a permanent virtual connection path, where in said user-side device is made to connect to one among multiple specified connection destinations via one of a permanent virtual connection path. Fig. 27 discloses a path specification

means (PPP Trailer, PPP Header) that specifies one path of a connection request destination from layer 2 link information that is emitted from the user-side device at the time of a layer 2 link connection request; and a path connection means (CPCS-PDU Trailer, CPCS-PDU Header) that causes said permanent virtual connection path connected with the user-side device to connect to one path of the connection request destination and form a path between the user-side device and the specified connection destination. However, Fig. 26 and 27 does not disclose a layer 2 link handler nor the embodiment of Fig. 27 within a network-side device, and Fig. 26 fails to disclose multiple specified connection destinations via one of a switched virtual connection path.

In an analogous art, Kim uses SVC in an ATM network and discloses a layer 2 link handler 213,214 (second layer) in Fig. 2.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in an ATM system a layer 2 link handler, as taught by Kim, to provide a method of obtaining private line service only through an ATM network. Col. 2, ln. 22-24.

Regarding claim 14, the combination of prior arts and Kim discloses a layer 2 link handler as described in claim 1. However, the combination failed to disclose software control by a processor and a switching means by means of hardware.

Kim further discloses processing that specifies one path of the connection request destination from layer 2 link information in said path specification means is done under software (software is running on the server and workstation) control by a

processor (there is processor inside server and workstation), and the path connection means that connects the permanent virtual connection path of the user-side device to said connection destination after on connection destination path is specified, is constituted by a switching means by means of hardware (terminal, server, workstation).

Fig. 3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include software and hardware, as taught by Kim, to provide a communication system comprising PVC control server for automatically controlling the PVC in an ATM network. Col. 2, ln. 25-28.

#### ***Allowable Subject Matter***

5. Claims 2-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claim 15 is allowed.

#### ***Response to Arguments***

7. Applicant's arguments filed June 17, 2004, have been fully considered but they are not persuasive.

Applicant pointed out that "Kim does not teach or even suggest that a user terminal, connected by a PVC, may have the PVC connected to connect to one path of the connection request destination and thereby forming a path between the user-side

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device and the specified connection destination.” Response, p.11-12. However, Kim “causes said PVC path connected with the user-side device to connect to one path of the connection request destination and forms a path between the user-side device and the specified connection destination,” as recited in claim 1. Furthermore, Applicant relied on “that is connected with the user-side device by a PVC path” and “causes said PVC path connected with the user-side device to one path of the connection request destination.” Response, p. 12. The limitation “causes said PVC path connected with the user-side device to one path of the connection request destination”, taken with “that is connected with the user-side device by a PVC path” in the preamble, results in any path from user-side device to destination. “A path between PVC” is not clearly recited in claim 1. Response, p.12.

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Rw*

BW

November 1, 2004



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